

COURT NEWS

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

Volume 5/Number 12

December, 1981

PERSONNEL ROSTER REVEALS THAT A NAME IS MORE THAN JUST A NAME

The Administrative Office of Courts' Personnel Division has prepared the following holiday surprise for Judicial System employees which gives a new insight to recent hiring practices within the court system.

Looking at the names of judicial officials and employees, did you know that in addition to the traditional court related jobs, we also list on the personnel roster twelve MILLERS, six BAKERS, four BUTLERS, two WEAVERS, five COOKs, as well as a BARBER, a CARPENTER, a PORTER and a PIPER.

Some of our finest employees are a DUKE, nine KINGS and a DAUPHIN who live in a large CASTLE surrounded by MOATTS.

It will probably come as a surprise that we also hire unemployed movie stars. Currently we list on the personnel roster BETTY DAVIS, ROBERT TAYLOR, MARY MARTIN, MEL BROOKS AND DEBBIE REYNOLDS (Shew).

We heard a rumor recently that the UJS was going to the birds. We believed it when we saw that we had two PEACOCKs, nine MARTINS, a HAWK, a CROW, a MALLARD, a THRASHER, a FINCH, and a SWANN as well as a lady HENN and a plain BYRD.

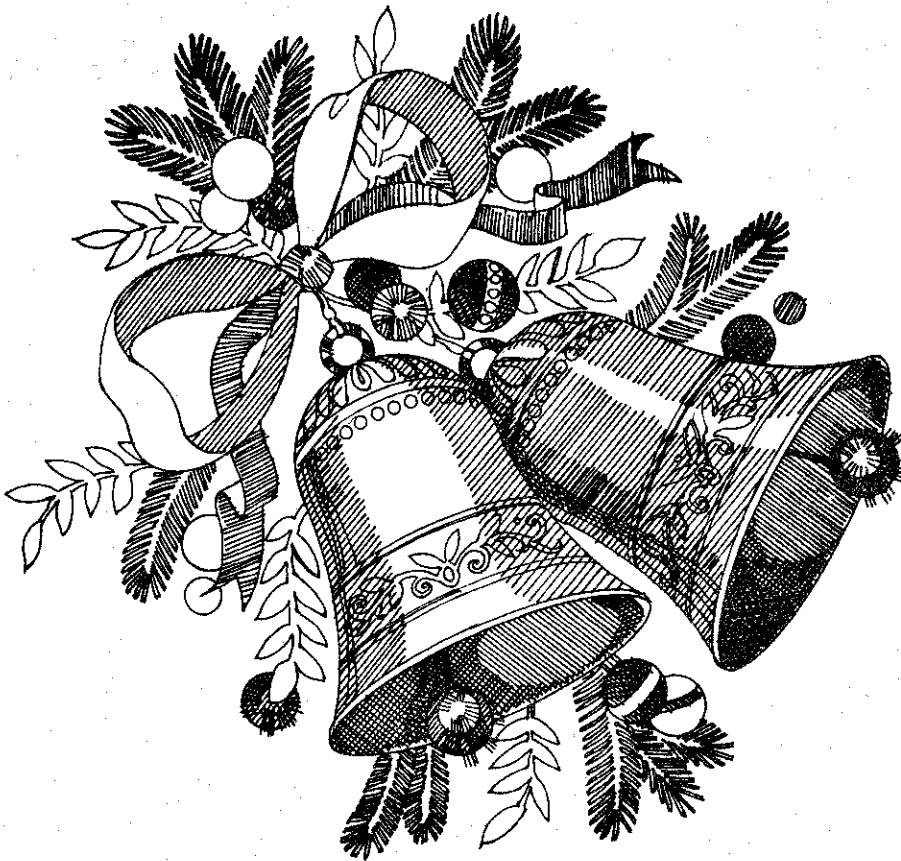
Most of our workers are people, but on occasion we have hired a pair of HARES, a WOLFE and a HEREFORD. We employee no sheep, although we have one employee who is WOOLEY.

The UJS is a colorful group, tending to be GREENE, BLACK, GRAY, BROWN and WHITE; only two are truly GOLDEN.

Our employees are NICE, BRIGHT, SWEET, YOUNG, RICH, and SPRY, although it has been said that a few are SAVAGE, CROSS and MOODY.

The KEY to a happy HOLLADAY this WINTER is to celebrate with a CARROLL, decorate with some BELLS and HOLLEY and stay out of the SNOW and BLIZZARD. Happy holidays to all!!!!

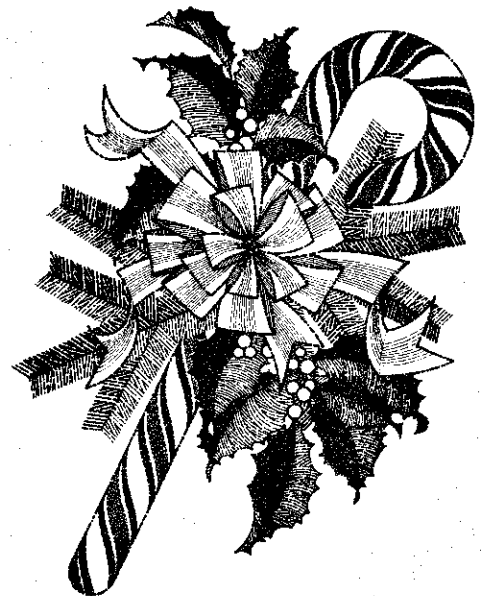




A
MESSAGE
FROM THE
CHIEF JUSTICE

During this most joyous holiday season, it is the great tendency of us all to reflect upon the past year--to revel in its triumphs, be sobered by its defeats and sorrows, and to savor this precious gift called life. As another year draws to an end, we become more aware of the bonds of kinship and friendship as families and friends come together. The year of 1981 has been one of progress and success for the Alabama Judicial System, and I take this occasion to express appreciation to each and every individual who has contributed to this success. I wish for you and your families a happy holiday season and best wishes for the new year.

C.C. Torbert Jr.
Chief Justice



CHRISTMAS AND NEW YEARS HOLIDAY SCHEDULE SET FOR COURTS

On November 13, Gov. Fob James declared the following holiday schedule for all state employees for Christmas and New Year's Day:

CHRISTMAS--December 24 and 25, 1981

NEW YEAR'S DAY--January 1, 1982



DECEMBER						
S	M	T	W	T	F	S
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

In view of this change in the previously published holiday schedule, Chief Justice C.C. Torbert Jr. has determined that state Court System employees will also observe the above schedule.

Those court employees who are required by their administrators to work on these holidays because of previously scheduled court calendars will be entitled to compensatory leave at a later date.

The pay schedule for the week of the Christmas holiday has also been revised by the state comptroller. Payroll warrants that were to have been paid on Friday, Dec. 25, 1981, will be paid on Wednesday, Dec. 23.

Please contact the payroll office of the Administrative Office of Courts if there are questions regarding these changes in the payroll schedule.

Season's Greetings



STEPS OUTLINED IN DECLARING ONE'S CANDIDACY FOR JUDGESHIP POSITIONS

The following is an updated reprint of an article which appeared in the January, 1976 issue of "The Gavel," the predecessor of "Court News." This article was originally prepared by Presiding Circuit Judge Thomas Huey Jr. of the 10th Judicial Circuit.

Steps in Candidacy of a Judge

First primary election is Tuesday, Sept. 7, 1982 (Section 17-16-6, Code of Alabama 1975).

Second primary election (run-off) is Tuesday, Sept. 28, 1982 (Section 17-16-6, supra).

General election is on Tuesday, Nov. 2, 1982 (Section 17-2-7, supra).

1. Not later than 5 p.m. Wednesday, July 9, 1982: File declaration of candidacy with chairman of respective party (along with qualifying fee).

Democrat: Jimmy Knight, 306 Jefferson Federal Building, Birmingham, AL 35203, 252-4143.

Republican: Bill Harris, P.O. Box 31046, Birmingham, AL 35222.

Statute: Section 17-22-5, Code.

Generally, any party conducting a primary election will begin taking declarations of candidacy approximately 30 days prior to this date. However, each prospective candidate should contact the appropriate party chairman well in advance of this date to ascertain exactly when and how declarations should be filed.

2. Within five days after announcement of candidacy: (a) File statement with secretary of state appointing committee to handle funds. (b) Copy of statement should also be filed with the probate judge (out of abundance of caution).

Statute: Section 17-22-5, Code.

3. Within 10 days after becoming a candidate (qualifying): (a) File with the state Ethics Commission a "statement of economic interests" as prescribed by the state Ethics Commission.

Statute: Section 36-25-15(a), Code.

(b) File with the clerk of the

Supreme Court of Alabama a "disclosure statement of financial interests," as well as a statement of economic interests on the form prescribed and prepared by the state Ethics Commission. Canon 6(c), Canons of Judicial Ethics.

4. Within 15 days after the primary election: File a post-election statement of expenses with the secretary of state (and with the probate judge again, out of caution).

Statute: Section 17-22-10, Code.

Note: These dates are: Sept. 22, 1982, first primary; Oct. 13, 1982, second (run-off) primary.

Section 17-22-9 of the Code provides "...the committee of any candidate who is not opposed for nomination or election shall not be required to file such statements." A 1959 amendment to the predecessor of this section eliminated the requirement that a pre-election statement of campaign expenses be filed.

5. Party executive committee will file list of certified candidates with secretary of state of individuals selected as candidates for general election:

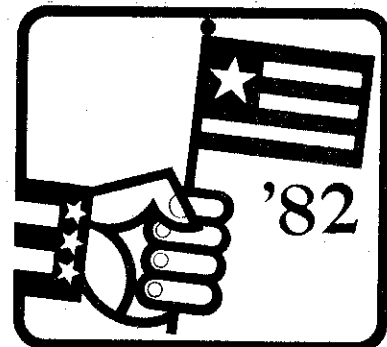
Statute: Sections 17-16-36 and 17-16-46, Code of Alabama 1975.

6. Dec. 2, 1982, file post-election statement of expenses with: (a) secretary of state, and (b) probate judge.

Statute: 17-22-10, Code.

7. Take oath of office prior to Jan. 17, 1983, filing one copy each with: (a) secretary of state, and (b) probate judge.

Note: It is desirable to take and file the oath of office on or before Jan. 1, 1983, in order to allow the secretary of state time to issue the appropriate commission.



MOBILE'S PRESIDING JUDGE HOCKLANDER RETIRES

Presiding Circuit Judge Joseph M. Hocklander of the 13th Judicial Circuit (Mobile County) retired in November, climaxing a distinguished career in public service spanning nearly three decades.

Gov. Fob James appointed Mobile Attorney Robert L. Byrd Jr., 45, as his replacement effective Dec. 1. Also, Circuit Judge Robert E. Hodnette was elected presiding circuit judge by the other eight judges of the circuit.

Actually, Hocklander is not fully retiring as he has requested, and Chief Justice C.C. Torbert has granted, he be allowed to serve as an active retired judge. An office has been renovated in the Mobile County Courthouse for his use, and he plans to be available as a trial judge "without the responsibility of managing a trial docket." He will receive no additional compensation other than his regular retirement.

One of Alabama's most respected and honored jurists, Hocklander launched his public service career in 1958 when he was elected to represent Mobile County in the state Legislature where he served with distinction as an influential member of the powerful Ways and Means Committee. Another member of this committee was Chief Justice Torbert and the two formed a strong friendship which has existed to this day.

Hocklander was appointed a circuit judge in 1961 while still in the Legislature, and in 1970, after the late Robert T. Ervin retired, he was elected presiding judge by his colleagues on the bench.

Earlier, the native of Tuscaloosa had served as city attorney for Chickasaw, Mt. Vernon and Satsuma, thriving municipalities on Mobile's outskirts. He is a graduate of the University of Alabama Law School and Murphy High School in Mobile.

Quickly, after his appointment to the Mobile bench, Hocklander won a well-deserved reputation as a "no nonsense" judge who was careful to keep his backlog of criminal cases at a minimum. In 1973, he achieved what in baseball is called "the perfect season" when he cleared his docket of all pending cases. At that time, Mrs. Myrtle Trott, who retired this year after spending 58 years in charge of the court's criminal division, commented "that's the first time in my memory such a feat has been accomplished."

For a number of years, Hocklander, as a member of the Judicial Study Commission,



JOSEPH M. HOCKLANDER

has been spokesman for the state judges and is credited with a leading role in the passage of legislation which vastly improved judicial pay and benefits. As a lay member of this committee once said "the judges of Alabama don't realize how lucky they are to have Judge Hocklander speaking for them." Like E.F. Hutton, when Hocklander talks, people listen.

Hocklander was an early advocate of the unified court system and his support and wise counsel proved instrumental in the final passage of the Judicial Article which made it possible. During the hectic transition to the new system, the Administrative Office of Courts frequently called for his advice in solving many of the complex problems which developed before it became one of the Nation's finest.

While closely monitoring and supervising the state's second largest circuit, Hocklander nevertheless found time to serve in various other judicial activities. He has been, or is currently: president of the Alabama Association of Circuit Judges; chairman of the Personnel Board of Mobile County Supervisory Committee; president and longtime member of the Board of Regents of the International Academy of Trial Judges. He is serving or has served also as a member of: State-Federal Judicial Commission; the Supreme Court Advisory Committee on Rules of Civil Procedure; the Advisory Council on Criminal Justice Administration at the University of South Alabama; the American Bar Asso-

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MOBILE'S JUDGE HOCKLANDER RETIRES

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ciation; Judiciary Advisory Section of the Alabama State Bar Section on Practice and Procedure of Law; chairman of the Alabama Bar Standing Committee on Judicial Selection and Tenure--Federal Courts; chairman of the Supreme Court Standing Committee on Rules of Conduct and Canons of Judicial Ethics; Alabama Court of the Judiciary; executive committee National Conference of State Trial Judges; faculty of the National College of State Trial Judges from which he graduated in 1965.

Also, he has been lecturer, moderator and panelist at seminars conducted by the Alabama Association of Circuit Judges, Alabama Judicial College, Alabama State Bar, National College of the State Judiciary, Alabama Defense Lawyers Association, Virginia Department of Court Management, American Academy of Judicial Education and the National Center for State Courts.

Despite this heavy schedule plus administering a trial docket averaging over 1,500 civil and criminal cases a year, Hocklander never neglected civic responsibilities. These included: director of the Mobile Mental Health Center; American Red Cross; Mobile Junior Chamber of Commerce; first president and chairman of the board of the Greater Gulf State Fair; chairman of the Eagle Scouts Court of Honor; commissioner of youth football; member of the advisory board of the S.D. Bishop State Junior College.

He is a veteran of World War II, serving as a corporal in the famous 82nd Airborne Division. After the war, he became president of the Francis C. Myers Post of the American Legion.

Hocklander's many talents are not confined to the legal field. His business ability is widely recognized and he has been invited to participate in numerous business enterprises. He has been a director of several corporations and chairman of Doctors Hospital in Mobile.

However, it is in the political arena Hocklander is best known. His guidance and counsel is vigorously courted, and he enjoys an envied reputation for his uncanny knack to pick future leaders in the state and federal governments.

Reminiscing recently on his years on

the Mobile bench, Hocklander could recall no one outstanding event but a whole series of highlights.

"Everytime I participated in a trial that brought a just result, I considered it a highlight.

"The satisfaction comes from giving the litigants the feeling that they had their day in court and were treated courteously and received justice, not from the magnitude of the case or the importance of the issues involved."

While health forced a reduction in his favorite sport of tennis, he plans to spend more time fishing near his Gulf Shores home and an occasional round of golf.

His replacement, Judge Byrd, is a graduate of Vanderbilt University and the University of Alabama Law School. A member of the Mobile law firm of Cunningham, Bounds and Byrd, he has been practicing law for 23 years, mostly in the civil field.

The preceding article on Judge Hocklander was prepared especially for Court News by Mobile County Circuit Clerk Maurice Castle.

RECORD DISPOSAL ASSISTANCE OFFERED TO CLERKS, REGISTERS AND REPORTERS

Clerks, registers and court reporters who need assistance with records disposal under Rule 47, Alabama Rules of Judicial Administration, may contact Deborah A. Hay at the Administrative Office of Courts.

Presently, a space study is being conducted to tabulate the effectiveness of the Records Retention Schedule (Rule 47, ARJA). Records disposed of without assistance of AOC personnel can be documented for the space study by contacting Miss Hay.

COURT CALENDARS SHOULD BE MAILED TO ADMINISTRATIVE OFFICE OF COURTS

As circuit and district court calendars listing planned terms of court for 1982 are completed, the Administrative Office of Courts requests that court officials submit a copy to Nancy Morochnick at the Administrative Office. The Administrative Office address is 817 South Court Street, Montgomery, Alabama, 36130.

CHIEF JUSTICE TORBERT ADDRESSES JOINT LEGISLATIVE BUDGET COMMITTEE

Following are remarks made by Chief Justice C.C. Torbert Jr. before the joint legislative budget committee on Dec. 3.

"It is indeed a pleasure for me to appear before this joint committee and report to you that your judicial system is functioning well except for significant caseload increases over the past four years.

"In 1977, the year I assumed office, a total of 485,903 cases were filed in the circuit and district courts of our state. During the fiscal year just ended, that number had increased by 184,953 per year to 670,856--a 38 percent increase, and during the past year alone, the number of criminal filings increased by 15 percent in the circuit courts and six percent in the district courts. Projections indicate that criminal filings will continue to rise at a rapid rate.

"I would like to take a few minutes of your time today to explain to you what these figures mean, because handling cases is what your court system is all about.

"Today in Alabama, the average caseload per circuit judge has reached 1,131 cases per year. This is a significant 24 percent increase from an average of 913 cases per judge in 1977. During this same time frame, the number of circuit judges has increased by four, or 3.7 percent.

"Today, the average caseload for a district judge is 6,102 cases per year. This is a rather large 41 percent increase from the 4,340 filings per judge in 1977. During this same period, the number of district judges increased by one.

"Even though we are currently utilizing retired judges to the fullest extent possible and transferring many active judges into circuits with high caseloads, the volume of work per judge continues to rise and I cannot predict at what point in time it will begin to seriously affect the quality of judicial service statewide.

"It has already begun to be felt in certain jurisdictions--Jefferson County for example--and in spite of the implementation of better case management methods, the Birmingham courts must have additional judgepower. I urge you to favorably con-

sider legislation which will be offered in the next regular session to fulfill this need. You added a district judge for Lee County in the recent special session which will relieve a serious workload problem in that jurisdiction.

"I have said to you in the past that in relation to the total number of cases and the total number of judges that we have had sufficient judge power to handle the statewide caseload. When I consider the needs of Birmingham and some other specific areas with critical needs, I can no longer make that statement with full confidence.

"I must also tell you that increased litigation in the courts not only affects the workload of judges. It creates more work for clerks of court and this additional volume means that sufficient clerical help must be provided to carry out this aspect of the judicial process. It means increases in juror and witness costs and the continuing rise in criminal filings impacts on prosecutors, probation officers, youth services and corrections.

"As those of you in the legislature evaluate your individual local situations and as legislation is introduced creating new judgeships, my office and the Administrative Office of Courts will be available and at your disposal in determining your local needs with an accurate statistical analysis and projected caseload trends for your circuits and districts. My pledge to you, as it has always been, is that we will call it like we see it so that you, as legislators, may make wise and prudent decisions in these matters.

"The tremendous caseload increase over the past four years in the trial courts has had its spillover affect at the appellate level.

"Between 1973 and 1981, the number of appeals and extraordinary writs docketed in your Supreme Court has increased by 122 percent and petitions for writs of certiorari have risen by 119 percent. In the past four years alone, new filings in the Court of Criminal Appeals have shown a 51 percent rise and in the Court of Civil Appeals, the increase has been 53 percent.

"Without the use of retired judges on these two courts, they would not have been able to keep pace and even with this added

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CHIEF JUSTICE TORBERT ADDRESSES JOINT LEGISLATIVE BUDGET COMMITTEE

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help, the volume of cases per judge has risen to the point where the judges themselves are fearful that the quality of their opinions are beginning to suffer. The same is true in the Supreme Court. I was astounded to learn recently that the state of Louisiana, nearly the same in size and population as Alabama, has 48 intermediate appellate judges. We have eight.

"I am pleased and I know you are also pleased that the judges at both the trial and appellate levels have significantly increased their productivity. The result has been that over the past four to six years the need for additional judgeships has been held to a minimum.

"However, I must today respectfully suggest that you seriously consider providing some additional help in specified circuits.

"For successive years, 1979-80 and 1980-81, your judicial system operated at the same level of funding. Last year, we requested and you approved a 1981-82 budget which reflected a four-percent increase for the trial and appellate courts.

"The budgets I present to you today for the trial and appellate courts reflect what I consider to be a very modest 1.7 percent overall increase. As is the case with all other departments, we were requested to include in the judicial budget funds for a projected 10 percent cost-of-living pay increase for all personnel. This increase, which, of course, will not be effective unless affirmatively approved by the legislature, and the ancillary increased costs which accompany higher pay-rolls such as unemployment compensation, retirement and social security will raise the total judicial budget another 12 percent. An additional 27th pay period is also figured into this percentage.

"The 1.7 percent budget increase we request is needed for two basic reasons--inflation and increased workload. It is significant, I think, that 84 percent of the trial court budget consists of fixed personnel costs. When the increase from these costs is subtracted, the remaining

increase for the trial courts amounts to \$259,000.

"When the mandated increases are stripped away at the appellate level, the Supreme Court shows a 4.3 percent actual increase and the Courts of Criminal and Civil Appeals actually show decreased budgets. Again, the bulk of their budgets, in fact, nearly all of their budgets, are personnel costs.

"Including all increases--the 1.7 percent actual figure we ask for and the anticipated or mandatory amounts added to that 1.7 percent, the overall increase for all state court operations amounts to 13.8 percent. This compares favorably with the 16.5 percent increase for the legislative branch and the 17.7 percent increase for all executive branch functions.

"The budget request we present is absolutely necessary in order to maintain court operations at the current level. It is what we must have, in the light of the workload we face, to continue to provide court services without interruption and backlog. I request that you consider it favorably."

JEFFERSON CASE TRANSFERRED WHEN PRESIDING JUDGE BECOMES ILL

Officials of the 10th Judicial Circuit (Jefferson County) recently reported what is believed to be a first for that circuit:

On Monday, Nov. 2, 1981, Judge C.W. (Dugan) Callaway began a personal injury case jury trial against a manufacturing company and an insurance company involving three parties and four lawyers. Considerable voir dire was done and a jury of 13 was selected. After substantial opening statements, the plaintiff called the first witness, an expert in safety engineering from New York.

The following day, the parties were continuing examination of the witness when Judge Callaway became ill and had to be excused from the case. Knowing that the case had been delayed in getting to trial, and appreciating that further delay would hurt all concerned, Judge Callaway persuaded the parties to agree to allow Judge Josh Mullins to complete the trial.

JUDICIAL STUDY COMMISSION MEETS

Associate Justice James L. Dennis of the Louisiana Supreme Court discussed appellate court restructuring at a meeting of the state Judicial Study Commission on Nov. 20 in Tuscaloosa.

This was one of several topics discussed at the commission meeting. Other topics included the construction of a new state judicial building and the need for additional funding and facilities for juvenile detention.

Circuit Judge Don Bennett of Dothan and state Rep. Bob Patton of Decatur related the needs of the juvenile justice system to the commission.

The commission was also addressed by Allen Smith, dean of the University of Alabama Law School, and Chief Justice C.C. Torbert, chairman of the study group.

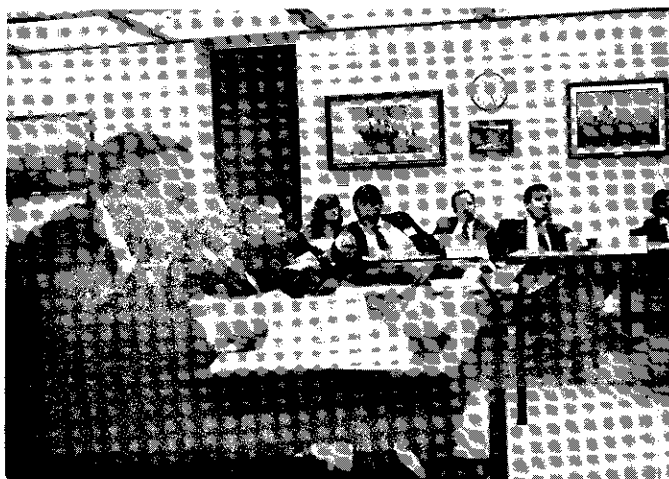
Following a general session, the commission divided into committees to discuss the three agenda topics. Reports in each of these areas will be drafted and reviewed by the entire commission for possible recommendations to the legislature.

District Judge Bennett McRae of Morgan County chaired the committee on Juvenile Justice; Supreme Court Justice Hugh Maddox chaired the committee discussing appellate court restructuring; and Judge Richard Holmes of the Court of Civil Appeals chaired the committee discussing a new judicial building.

JUDICIAL STUDY COMMISSION MEETS...Top photo at right, Chief Justice C.C. Torbert Jr., Judge Robert P. Bradley, Court of Civil Appeals; Judge John Tyson, III, Court of Criminal Appeals; Jeannie Nix, Judicial College; Rep. Bob Patton; Frank Gregory, AOC; Sen. Reo Kirkland; Thelma Braswell, director of the Alabama Judicial College. Bottom photo, Administrative Director of Courts Allen L. Tapley; Lane Mann and Tom Barber, AOC; Attorney Fournier Gale; Montgomery Probate Judge Walker Hobbie; Cherokee County District Judge William H. Lumpkin; Judge Richard Holmes; Chilton County Circuit Clerk Morris Moatts; Rep. Charles Langford; Supreme Court Justice Hugh Maddox; and Jefferson County Circuit Clerk Polly Conradi. The commission met Nov. 20 in Tuscaloosa.



JAMES L. DENNIS...associate justice of the Louisiana Supreme Court, discusses appellate court reorganization.





NEWS FROM THE JUDICIAL COLLEGE

CIRCUIT, DISTRICT JUDGES TO MEET IN BIRMINGHAM IN JANUARY

The circuit and district judges are to convene in Birmingham for their Mid-Winter Conference on Jan. 21-22, 1982. The education committees of the respective associations planned a wide range of sessions in response to problems identified by judges.

These sessions include Unlawful Detainer and Wrongful Possession with Attorneys George S. Wright and Glenn N. Baxter both of Tuscaloosa; Search and Seizure, particularly in the area of warrants presented by Circuit Judge Henry Blizzard of Athens; a review of Judicial Retirement provisions by Tom Barber, assistant legal counsel for the Administrative Office of Courts; Substitution of Parties presented by Vastine Stabler, a Birmingham attorney; Uniform Child Custody Act presented by retired Judge Edward N. Scruggs. Circuit Judge Marvin Cherner of Birmingham will make a presentation on the Law of Damages while a panel consisting of Circuit Judges Edgar Russell of Selma, Robert Hodnette of Mobile and Jack Riley of Cullman along with Attorneys Don Beebe of Birmingham and Robert B. Harwood Jr. of Tuscaloosa discusses Discovery and Motion Practices. Circuit Judge Kenneth Ingram of Ashland will discuss Recusals. Judge Richard Holmes, Court of Civil Appeals, will make a presentation regarding the Changing Rights of Husband/Wife. Sam Franklin, a Birmingham attorney, will discuss Piercing the Corporate Veil and Circuit Judge Charles Crowder will discuss Competency to Stand Trial.

Other topics on the agenda include Garnishments; Judges' Liability; Tort of Outrage; Restitution Act; Habitual Offender.

Judge Robert E.L. Key of Evergreen will preside at the Circuit Judges Association meeting and Judge Jerry Fielding of Talladega will preside at the District Judges Association meeting.

CLERKS, REGISTERS TO MEET IN B'HAM FOR FEBRUARY MID-WINTER CONFERENCE

Alabama's clerks and registers will meet in Birmingham on Feb. 4-5, 1982, for their Mid-Winter Conference. Sam Grice, Talladega County circuit clerk and president of the Clerks and Registers Association, will preside at the meeting. Chief Justice C.C. Torbert Jr. will deliver the keynote address on Thursday, Feb. 4. The clerks and registers will have discussion groups for any problems or concerns they may have. Serving as group leaders during these discussions will be Polly Conradi, Jefferson County clerk, for large counties; Jimmy Lindsey, DeKalb County clerk, for medium-sized counties; Ronald Harwell, Sumter County clerk, for small counties; Joe Ingram, Talladega County register, for registers; and Melba Dutton, Morgan County district clerk, for district clerks. The various groups will report back to the general assembly on the problems and solutions.

A panel of clerks and registers will make presentations regarding accounting problems from the managers viewpoint. Serving on the panel will be Mary Auburtin, Perry County clerk, moderator; R.L. Foster, Bibb County clerk; Elizabeth Hamner, Tuscaloosa County district clerk; Devon Kiker, Russell County clerk; and Robert H. Tillman, Administrative Office of Courts.

In another session, presentations will be made regarding the duties of the clerk and the presiding judge. These will be made by Billy Harbin, Madison County clerk, and Judge Claud Neilson, presiding circuit judge of the 17th Judicial Circuit.

The final session will deal with the duties of a magistrate relating to warrants. Morris Moatts, Chilton County clerk, is responsible for this presentation.

AOC EMPLOYEES TOUR COUNTY COURTS

Employees who have joined the Administrative Office of Courts during the past year recently completed an annual tour through the Montgomery County Court offices in order to gain a better understanding of how the court offices operate.

PEOPLE * PEOPLE

Alabama State Bar President *Harold V. Hughston* died Nov. 20 following a lengthy illness. A Tusculum attorney, Hughston was elected State Bar President at the group's annual conference in July in Mobile.

Hughston served as a circuit judge for the 11th and 31st Judicial Circuits of Alabama from 1948 to 1955 and prior to that he served as judge of the Colbert County Court of Law and Equity.

He was a lifelong resident of Colbert County and served for several years as attorney to the county commission. He was a graduate of the University of Alabama School of Law and belonged to numerous civic and professional organizations.

He is survived by his wife, Lucy Allison Hughston; two daughters, Caroline H. Maddox and Lucy H. Nichols; and two sons with whom he practiced law, Harold Jr. and James D.

Retired Circuit Judge *Clifford K. Delony* of the 31st Judicial Circuit died Nov. 16. He served 24 years as circuit judge in the 31st Circuit and was, for many years, presiding judge. He retired from the bench in March of 1980.

It's a baby girl for Administrative Office of Courts' purchasing account clerk *Rosemary Scheiben* and her husband Fred. Anna Elizabeth was born Nov. 23.

Herschel Thornton, supernumerary clerk from Coosa County, died recently at the age of 66. He served as clerk for 19 years before retiring in 1977.

A Mobile attorney, *Robert L. Byrd Jr.*, has taken office as a circuit judge in the 13th Judicial Circuit, filling the remainder of the term left vacant by the retirement of Presiding Circuit Judge Joseph Hocklander.

Appointed by Gov. Fob James, Byrd took office on Dec. 1. He had been a member of the law firm of Cunningham, Bounds and Byrd and has served as a special judge of the Mobile Probate Court.

A native of Birmingham, Byrd is a grad-

uate of Vanderbilt University and the University of Alabama Law School.

Judge *Robert E. Hodnette* is the new presiding circuit judge of the 13th Judicial Circuit following the retirement of Presiding Circuit Judge Joseph Hocklander. Hodnette was elected to the position by the other eight circuit judges.

Hodnette is completing his second term on the 13th Circuit bench. He is a native of Escambia County and is a graduate of Auburn, Alabama and Chicago University.

Jack C. Dixon has been appointed staff attorney to the chief justice. Dixon was staff attorney for the Administrative Office of Courts and will continue to serve as director to the Judicial Study Commission.

Jefferson County Circuit Judge *Joe G. Barnard* was the featured speaker at an August meeting of Kentucky judges.

Peggy Phelps, wife of Montgomery Circuit Judge Joseph Phelps, was called for jury duty during the most recent term of jury court in Montgomery. She was selected to serve on a jury--in Judge Phelps courtroom--for a criminal trial.

Also serving on Montgomery County jury duty this week was Federal District Judge *Truman Hobbs*. He, too, was selected to serve on a criminal case jury.

Both cases, one a robbery and one an assault, resulted in acquittals.

In the recently completed United Way Appeal, Administrative Office of Courts employees collectively pledged over 150 percent of the goal established for the agency.



1981 ALABAMA JUDICIAL COLLEGE 1982 CONTINUING EDUCATION PROGRAMS									
GROUP MONTH	CIRCUIT JUDGES	DISTRICT COURT JUDGES	JUVENILE COURT JUDGES	MUNICIPAL COURT JUDGES	CLERKS AND REGISTERS	CLERK/REGISTER EMPLOYEES	COURT REPORTERS	JUDICIAL SECRETARIES	OTHER GROUPS
1981 DECEMBER									
1982 JANUARY	MID-WINTER CONFERENCE JAN 21-22 BIRMINGHAM								
FEBRUARY	NEW JUDGES ORIENTATION FEB 15-19 TUSCALOOSA			EDUCATION CONF FEB 20 TUSCALOOSA	MID-WINTER CONF FEB 4-5 BIRMINGHAM				
MARCH					ACCOUNTING PROCEDURES II MAR 25-26 BIRMINGHAM				
APRIL	SPRING JUDICIAL SEMINARS APR 27-29 TUSCALOOSA			LEAGUE CONFERENCE APR 24 MOBILE					MINI COURT CLERKS & MAGISTRATES SEM MAY 5-6, H'VILLE MAY 12-13, MOBILE MAY 19-20, MTGRY MAY 26-27, B' HAM
MAY									DUI INSTR COURSE JUN 21-25 TUSCALOOSA
JUNE			ANNUAL CONFERENCE JUN 3-4 BIRMINGHAM		ANNUAL CONFERENCE JUN 10-12 GULF SHORES				
JULY	PRESIDING CIRCUIT JUDGES CONF JUL 13 ANNUAL CONFERENCE JUL 14-15 HUNTSVILLE						ANNUAL CONFERENCE JUL 15-16 BIRMINGHAM	ANNUAL CONFERENCE JUL 8-9 TUSCALOOSA	
AUGUST						NEW EMPLOYEE ORI AUG 5-6 TUSCALOOSA			DUI INSTR CERT AUG 12-13 MONTGOMERY
SEPTEMBER									

CHANGES: DUI Instructor Course - Date and location changed from June 25-27, Selma to June 21-25, Tuscaloosa.

DUI Instructor Certification - Location changed from Selma to Montgomery.

NOTE: Date and location of the Annual Appellate Judges Conference has not yet been determined.

PEOPLE * PEOPLE

Alabama State Bar President *Harold V. Hughston* died Nov. 20 following a lengthy illness. A Tusculumbia attorney, Hughston was elected State Bar President at the group's annual conference in July in Mobile.

Hughston served as a circuit judge for the 11th and 31st Judicial Circuits of Alabama from 1948 to 1955 and prior to that he served as judge of the Colbert County Court of Law and Equity.

He was a lifelong resident of Colbert County and served for several years as attorney to the county commission. He was a graduate of the University of Alabama School of Law and belonged to numerous civic and professional organizations.

He is survived by his wife, Lucy Allison Hughston; two daughters, Caroline H. Maddox and Lucy H. Nichols; and two sons with whom he practiced law, Harold Jr. and James D.

Retired Circuit Judge *Clifford K. Delony* of the 31st Judicial Circuit died Nov. 16. He served 24 years as circuit judge in the 31st Circuit and was, for many years, presiding judge. He retired from the bench in March of 1980.

It's a baby girl for Administrative Office of Courts' purchasing account clerk *Rosemary Scheiben* and her husband Fred. Anna Elizabeth was born Nov. 23.

Herschel Thornton, supernumerary clerk from Coosa County, died recently at the age of 66. He served as clerk for 19 years before retiring in 1977.

A Mobile attorney, *Robert L. Byrd Jr.*, has taken office as a circuit judge in the 13th Judicial Circuit, filling the remainder of the term left vacant by the retirement of Presiding Circuit Judge Joseph Hocklander.

Appointed by Gov. Fob James, Byrd took office on Dec. 1. He had been a member of the law firm of Cunningham, Bounds and Byrd and has served as a special judge of the Mobile Probate Court.

A native of Birmingham, Byrd is a grad-

uate of Vanderbilt University and the University of Alabama Law School.

Judge *Robert E. Hodnette* is the new presiding circuit judge of the 13th Judicial Circuit following the retirement of Presiding Circuit Judge Joseph Hocklander. Hodnette was elected to the position by the other eight circuit judges.

Hodnette is completing his second term on the 13th Circuit bench. He is a native of Escambia County and is a graduate of Auburn, Alabama and Chicago University.

Jack C. Dixon has been appointed staff attorney to the chief justice. Dixon was staff attorney for the Administrative Office of Courts and will continue to serve as director to the Judicial Study Commission.

Jefferson County Circuit Judge *Joe G. Barnard* was the featured speaker at an August meeting of Kentucky judges.

Peggy Phelps, wife of Montgomery Circuit Judge Joseph Phelps, was called for jury duty during the most recent term of jury court in Montgomery. She was selected to serve on a jury--in Judge Phelps courtroom--for a criminal trial.

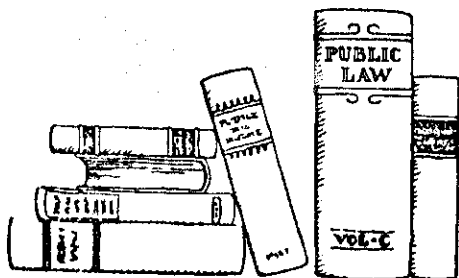
Also serving on Montgomery County jury duty this week was Federal District Judge *Truman Hobbs*. He, too, was selected to serve on a criminal case jury.

Both cases, one a robbery and one an assault, resulted in acquittals.

In the recently completed United Way Appeal, Administrative Office of Courts employees collectively pledged over 150 percent of the goal established for the agency.



LEGAL NOTES



ATTORNEY GENERAL OPINIONS

Juvenile Court Appeals

In an opinion dated Oct. 21 and recently released, the attorney general addressed the following inquiries regarding the appeal of cases from a circuit court level family court:

(1) Where the juvenile court is presided over by a circuit judge and an appeal is made, is the appeal made to another circuit judge or to an appellate court? The same question arises regarding custody, non-support, paternity, and URESA cases heard by a circuit judge;

(2) When written notice of appeal is filed in a case within 14 days, if an appeal bond is required, must it be filed and approved within 14 days? If such bond is not filed within 14 days, is it appropriate for the family court judge to deny the appeal or is it the responsibility of the appellate court to make such a decision?

(3) When a referee hears a non-support, paternity or reciprocal case and the decision is ordered and confirmed by the circuit judge sitting as a juvenile or family court judge, to which court does the appeal lie and what consideration is given to appeal bond as stated above?

In answer to these inquiries, the attorney general specifically concluded the following:

(1) Rule 20, Alabama Rules of Juvenile Procedure, appears to mandate a record of all juvenile proceedings,

although an order of the court or request of a party is necessary for a transcript to be made. With this in mind, Rule 28, A.R.J.P., indicates that in delinquency proceedings an appeal would lie to the Court of Criminal Appeals. This is true because the latter rule provides that appeals lie to the appellate court (s) if there is an adequate record or stipulation of facts and the right to a jury trial has either been waived or granted to those entitled to one, or the parties stipulate that only questions of law are involved on the appeal. Since an adequate record should be available and children are not granted a jury trial right, the attorney general concluded that the appeal in these cases should lie to the appellate courts.

Likewise, unless otherwise provided by statutory or case law, the above conclusion would apply to custody, paternity and non-support cases as long as a record of the proceedings is made as required by Rule 20, the attorney general opined.

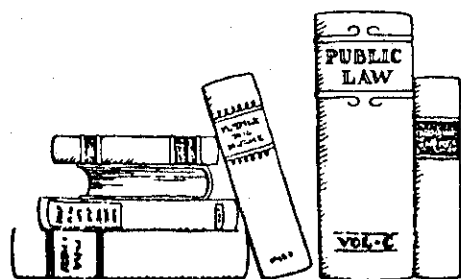
(Please note: Section 26-12-8, Code of Alabama 1975, provides for the right to a jury trial in the circuit court in paternity cases on appeal and the time for filing notice of appeal is specifically shortened to 10 days in those instances).

(2) The attorney general further stated that the 42 day period required for notice of appeal to the appellate courts should apply in cases appealed from a circuit court level juvenile court to the proper appellate court. The 14 day period applies to appeals to the circuit court. Also, Rule 7, Alabama Rules of Appellate Procedure, contemplate that the security for appeal shall be deposited with the filing of the notice of appeal. However, the failure to file the appeal bond within the 42 day period is not fatal to the appeal. It is up to the appellate court to consider whether the appeal will be denied (citing *Ralston Purina Co. v. Pierce*, 265 Ala. 365, 90 So.2d 922).

Rulings of a referee, whether in the circuit or district court, must be confirmed or modified by the regular juvenile court judge and then become an order of the court (Section 12-15-6(c)). Thus, if a rehearing before the regular juvenile judge is not requested, the same appellate procedure as in other cases heard before a juvenile judge is followed. Thus, if

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LEGAL NOTES



ATTORNEY GENERAL OPINIONS

(Continued From Page 13)

the juvenile judge is a circuit judge, the appeal lies to the appropriate appellate court. When a rehearing on a referee's decision is requested before the regular juvenile judge as provided in Section 12-15-6(d), the decision of the juvenile judge on this rehearing is appealable in the same manner as rulings on his other case.

Warrant, Writ or Order Used

As Basis For

Imprisonment Must be Provided

To Petitioner

For Habeas Corpus,

Section 15-21-28

In an opinion issued on Oct. 27, 1981, the attorney general ruled that the provisions of Section 15-21-28 which provide:

"Any officer who refuses or neglects to deliver a true copy of the order, writ, warrant or process by virtue of which he detains any prisoner, either to the prisoner himself or to any other person who applies for the same on his behalf, for six hours after demand is made, forfeits to the prisoner \$200.00, and is also guilty of a misdemeanor, on conviction of which

he shall be fined not less than \$50.00 nor more than \$500.00; but no officer is required to deliver more than two copies of such order, writ, warrant or process."

should be construed to apply from the date of arrest and particularly while the prisoner is preparing to file a petition for a writ of habeas corpus. The opinion goes on to say that this section should be construed with the provisions of Section 15-21-4 which require a habeas corpus petitioner to annex a copy of any warrant, writ or other such process to the petition. In summary, the provisions of Section 15-21-28 are not limited in application to instances where a habeas corpus petition has been granted, nor is it required that one have been filed. The section applies to all steps taken by the prisoner after arrest in preparation for filing the petition.

County Commission Not Required

To Provide Counsel

To Defend County Officials

In an opinion issued on Oct. 27, the attorney general stated that Section 11-1-9, Code of Alabama 1975, although allowing the various county commissions to pay the cost of defending a county official who is party to a lawsuit does not mandate that they do so. This Code section, says the attorney general, leaves it within the discretion of the county commission whether they will pay the cost of defending such lawsuits when the suit grows out of the performance of any duty and does not involve a willful or wanton personal tort or criminal offense. This opinion confirms an earlier opinion issued on Jan. 10, 1975 and found at Quarterly Reports of the Attorney General, Volume 137, page 29.

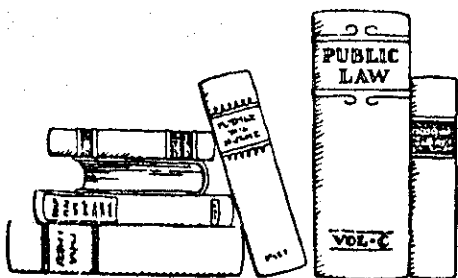
Business Corporation Act

Effective Date

In an opinion dated Oct. 20, 1981, the attorney general held that when Certificates of Incorporation or amendments thereto are presented to the probate judge for filing after the effective date of the New Business Corporation Act (1/1/81), the new Act

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LEGAL NOTES



ATTORNEY GENERAL OPINIONS

(Continued From Page 14)

governs for recording and certification purposes. The attorney general went on to explain that regardless of when an instrument is prepared or executed, the date of filing determines whether or not the new Act will control.

District AttorneysEmployee Health Insurance Benefits

The attorney general was asked for a formal opinion on whether Section 12-17-220 of the Code authorizes District Attorneys to supplement their employees' salaries by providing them with health insurance. On Oct. 2, 1981, the attorney general issued an opinion stating that Section 12-17-220(b) "provides ample authority for a district attorney to supplement or increase the salaries employees of his office by providing health insurance for them," and pursuant to Section 12-17-220(c), such health benefits may be paid from a state appropriation.

Probate Judges - Voter Lists

On Oct. 30, 1981, the attorney general issued an opinion interpreting Section 17-4-138 of the Code which authorizes payment to the probate judge from the county treasury at the rate of \$.05 per name for his services in preparation of

a list of qualified voters. The attorney general held that this payment is due the probate judge regardless of how the list is prepared, as long as he is ultimately responsible for preparing and certifying the list. This question arose because certain counties now prepare their voter lists by computer, using their own computer equipment and programs. The probate judge's duties have been reduced considerably in such instances, but he must still verify the voter list after it is printed and make necessary additions and deletions.

While the attorney general held that the probate judge is legally entitled to payment, in his opinion he also noted that the probate judge is responsible for all administrative costs incurred in preparing the list. The county commission could thus determine the costs of using the county's computer equipment and programs and deduct these costs from the amount the probate judge is entitled to receive.

OFFICES OF PROFIT AND DUAL OFFICE HOLDING

The attorney general was recently requested to issue an opinion on the following questions:

(1) Is a person who is appointed a member of the jury commission pursuant to Section 12-16-32, Code of Alabama 1975, holding an office of profit within the meaning of Section 280 of the Alabama Constitution?

(2) Does Section 12-16-31, Code of Alabama 1975, prohibit a jury commission from performing the duties of all other forms of public employment for which compensation is provided?

(3) If question (2) above is answered in the negative, what does the restriction in Section 12-16-31, supra, which prohibits members of the jury commission from performing any other public duty, refer to?

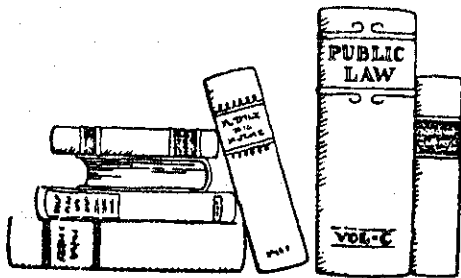
(4) Is the position of Bailiff I an "office of profit" within the meaning of Section 280, supra?

(5) Absent a specific statutory authorization, may a person perform the duties of more than one position of public employment and receive compensation for each so long as he does not hold two offices of profit?

In an opinion dated Nov. 10, 1981, the

(Continued On Page 16)

LEGAL NOTES



ATTORNEY GENERAL OPINIONS

(Continued From Page 15)

attorney general set out the factors to be considered in determining whether a position is an office of profit. They are: (1) the individual holding the position must be elected or appointed; (2) he must be appointed for a certain term and receive a fixed compensation; and (3) he must exercise in his position a part of the sovereign power of the state.

It has also been determined that an office of profit is one to which salary or other compensation is attached. Opinion of the Clerk, No. 27, 386 So.2d 210 (Ala. 1980). Based on this criteria, the attorney general concluded that the office of a jury commission member, to which one is appointed by the governor with both term and compensation fixed by law, is an office of profit within the meaning of Section 280.

2,3) In answer to question 2 and 3, the attorney general does not believe that Section 12-16-31, Code of Alabama 1975, prohibits all other forms of public employment for which compensation is provided. That section provides in pertinent part: "Members of the Commission shall not... hold any other office...or perform any other public duty...which carries with it any compensation whatsoever." Although "other public duty" clearly ap-

plies to any position that could be described as a public office, the attorney general does not believe the legislature intended the prohibition of this statute to extend to those who are merely public employees. The distinction between the two, as the cases point out, is that a public officer is invested with a portion of the sovereign power of the state. For these reasons, the attorney general concluded that Section 12-16-31 prohibits jury commission members from accepting the duties of other public offices, not from accepting employment as a public employee.

4) Question 4 is answered in the negative. In an opinion dated Feb. 6, 1976, the attorney general concluded that the position of bailiff is not an office of profit under Section 280, describing it, rather, it is a position of employment. This conclusion is reaffirmed here, that a bailiff exercises no authority of the sovereign and serves no certain term.

5) The answer to question 5 is no. Above and beyond the prohibition against holding more than one office of profit, Section 36-6-3 prohibits a public office holder from accepting compensation for performing the duties of more than one office. Likewise, a public employee is prohibited from accepting compensation for more than one position, absent specific statutory authorization to the contrary.

Local Bills, When Re-Introduced,

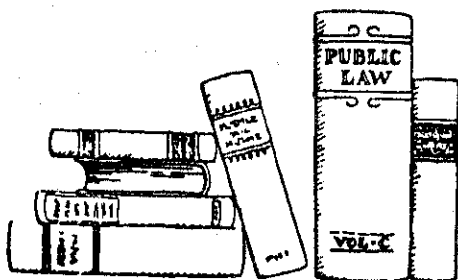
Must Be Re-Advertised

In an opinion dated Oct. 20, 1981, the attorney general stated that when a bill is re-introduced in a later session of the legislature, it must be re-advertised. The opinion quoted the Biennial Report of the Attorney General, 1930-32:

"No special, local or private law can be passed by the Legislature unless notice of the intention to apply therefore shall have been published in the manner set out in Section 106 of the Constitution. While the bill which is re-introduced may be exactly like the bill which has been indefinitely postponed, it is nevertheless a new, separate and distinct bill. When such a local bill is re-introduced, the bill is

(Continued On Page 17)

LEGAL NOTES



ATTORNEY GENERAL OPINIONS

(Continued From Page 16)

designated by a new number and is, in legal contemplation, a new, separate and distinct bill and should be advertised in the manner set out in Section 106 of the Constitution."

Persons Authorized To ServeCivil Process

In an opinion dated Oct. 27, 1981, the attorney general stated that the only persons authorized to serve civil process are sheriffs, deputy sheriffs, constables and persons designated by a court pursuant to Rule 4.1 (b) (2) ARCP. In response to an inquiry whether a sheriff or the county commission could employ or appoint a person whose duties would be limited to service of process and whose duties would not include the power of arrest, the attorney general stated that the only person in the sheriff's office who could serve process would be the sheriff or an individual deputized by the sheriff and having the authority of the sheriff. However, such an individual would have to meet the requirements of the Peace Officers Minimum Standards and Training Act.

Restitution Statute Is Not Retroactive

In an opinion dated Oct. 30, 1981, the attorney general determined that the restitution provisions of Sections 15-18-65

through 15-18-77, Code of Alabama 1975, cannot be given retroactive effect to crimes committed prior to its effective date. The opinion cites the holding in the case of *Cox v. State*, 394 So.2d 103 (1980) in which the Court of Criminal Appeals stated: "(the) Act provides for an additional penalty which did not exist at the time of the commission of the crime in question" and is therefore an unconstitutional ex post facto application of the statute where the crime was committed prior to the date upon which the act adopting the restitution provisions became effective.

ALABAMA JUDICIAL INQUIRY COMMISSION
SYNOPSSES OF ADVISORY OPINIONS

Below are synopses of advisory opinions issued by the Alabama Judicial Inquiry Commission this month:

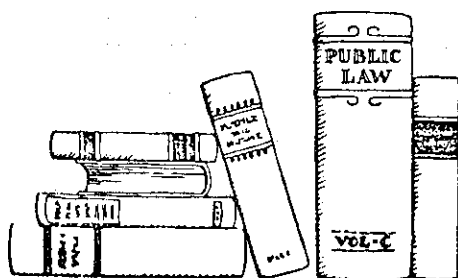
Synopsis CXIX---Can a part-time municipal judge be retained by the municipality, which employs him as a judge, to give the municipality legal advice or to represent the municipality in court? This question assumes that the legal advice sought does not relate to the proceedings in which the judge has served as judge.

OPINION---The Commission is authorized to give its opinion only upon matters concerning the Alabama Canons of Judicial Ethics. However, in order to answer the questions, the Commission must first note the provisions of Section 12-14-30(d), Code of Alabama, 1975. "...No judge shall be otherwise employed in any capacity by the municipality during his term of office." This appears to prohibit a municipal judge from being employed as an attorney by the municipality which employs him as a judge. Should this interpretation of Section 12-14-30(d) be correct, the employment of a municipal judge as an attorney by the municipality which employs him as a judge would be prohibited under Canon 2A. The question of the appropriate application of Section 12-40-30(d) should be addressed to the attorney general for his opinion.

Synopsis CXX---May a judge own and operate, on a part-time basis, a business that is a direct distributorship of a nationally known product line as well as sponsor other persons who distribute that same product line?

(Continued On Page 18)

LEGAL NOTES



ALABAMA JUDICIAL INQUIRY COMMISSION SYNOPSIS OF ADVISORY OPINIONS

(Continued From Page 17)

OPINION---In very general terms, a judge may own and operate a business where such ownership or operation does not conflict with the provisions of Canon 5C. Whether the ownership or operation of a business by a judge is violative of any of the provisions of Canon 5C can be answered only with regard to specific factual circumstances which may arise.

SYNOPSIS CXXI---Is a district court judge, who serves on jury duty, entitled to receive the \$10 per day and five cents per mile to which other jurors are entitled?

OPINION---The attorney general has previously ruled that the juror compensation allowed under Section 12-19-210, Code of Alabama, 1975 constitutes a travel and expense allowance owed to persons called for jury duty and through the repeal of Section 12-16-1, judges are no longer exempt from jury duty. Such being the case, it is the opinion of the Commission that the Alabama Canons of Judicial Ethics do not prohibit a district court judge, called as a citizen to serve on jury duty, from receiving the same expense allowance as all other citizens.

SYNOPSIS CXXII---Is a judge disqualified from sitting in a civil case in which the plaintiff's sister is the

wife of a third person who jointly owns an airplane with the judge? The judge informed both parties to the lawsuit of his business relationship with the plaintiff's sister's husband. Upon such notification, the defendants replied by letter stating no objection to the judge's sitting in the proceeding. However, the plaintiff's attorney replied by letter that although he personally had no objection to the judge's sitting, he felt that it would probably be better that the case be heard by another judge.

OPINION---The Commission does not feel that the above-stated facts are sufficient to require the judge's disqualification under Canon 3C of the Alabama Canons of Judicial Ethics. From the instant fact situation, the mere fact of the judge's business relationship with the plaintiff's sister's husband is insufficient per se to require disqualification. However, the facts presented would permit the judge to disqualify himself if he should feel that disqualification is necessary.

NOTES FROM THE APPELLATE BENCH

Cases argued before the Supreme Court during the past month include:

Whether the issuance of industrial development bonds by a county board to retail businesses (non-industrial or non-manufacturing) is valid pursuant to the Wallace-Cater Act, Code 1975, Sections 11-20-30 through -50. (80-494--MacDonald's Corp. and the Industrial Development Board of Elmore County v. Jack DeVenney, et al.)

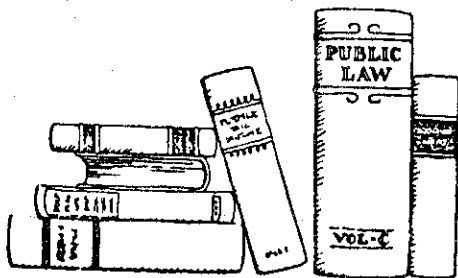
Whether a school board which wishes to transfer a tenured teacher must notify the teacher of the intent to transfer prior to July 1 of the succeeding year. (80-737--Ex parte: Board of Education Jefferson County)

Whether the record of a conviction by a probationer of DUI, based upon a plea of guilty by the probationer who was not represented by counsel, is sufficiency evidence in and of itself for revocation of probation. (80-685--Ex parte: State of Alabama v. Hollingsworth)

Whether a rate of return to equity which is lower than the cost of debt is confiscatory. (79-865--GTESC v. APSC)

(Continued On Page 19)

LEGAL NOTES



NOTES FROM THE APPELLATE BENCH

(Continued From Page 18)

Whether workmen's compensation claimant who had been in an auto accident, and who had been advised that he could not do anything but light work, should have returned to his employer and "offer himself for work as soon as he was again able to work. . . ." Code 1975, § 25-4-78 (2). (80-593 - Ex parte: Gregory Stewart)

Whether the state must produce a material witness, who was an undercover agent, or else have its case against the defendant dismissed. (80-373 - Ex parte: State, in Re: David Self)

Whether an authorized representative of a corporation who signed his own name to a promissory note is personally obligated when the instrument fails to show that he signed the note in a representative capacity. (80-662 - Ex parte: Coussement)

RELEASE OF PURCHASING INFORMATION DOES NOT CONSTITUTE ENDORSEMENT

The Purchasing Division of the Administrative Office of Courts has started releasing to qualified vendors, upon their requests, a list of those court officials who have approved requests for the purchase of particular items of equipment. The release of this information does not constitute, in any way, endorsement of a particular vendor's product. It also does not obligate any court official to

receive or see any vendor's sales representative who has received this information. This data is being provided vendors as it is considered a "public record" and, to allow court officials to evaluate the different vendor's product before actually consummating a purchase. This will, hopefully, allow each court official to obtain, within budgetary limitations, the equipment best suited to his or her needs.

UJS EMPLOYEES PROHIBITED FROM ACCEPTING COMPENSATION FROM MORE THAN ONE POSITION

The Administrative Office of Courts has received an attorney general's opinion concerning compensation of officials and employees of the state of Alabama. Specifically, this opinion states that according to Section 36-6-3 of the Code of Alabama 1975, a public employee is prohibited from accepting compensation for more than one position unless there is specific statutory authority to the contrary. (Attorney general opinion included in this issue.)

This opinion prohibits employees of the Unified Judicial System from serving in and receiving compensation from more than one position regardless of whether the position is full or part-time. As a result, any full time employee of the UJS cannot serve as a jury commission member, jury commission clerk, part-time bailiff, etc. Also, any of the above mentioned part-time employees cannot serve in a second part-time position.

If there are specific questions concerning this opinion, they may be addressed to Bob Tillman or Oliver Gilmore at the Administrative Office of Courts.

DIRECTIVE CONCERNING ALIAS WRITS

During the past several months, a question has surfaced concerning the \$5 docket fee in district court and the \$15 docket fee in circuit court for alias writs. The question concerns whether the fee should be assessed on issuance or on execution. According to Sections 12-19-171 (a)(1)b and 12-19-171 (a)(2)a of the Code of Alabama 1975, these charges are for the execution of an alias writ. Therefore, no charge should be assessed if an alias writ is issued but never actually served on the defendant.



COURT NEWS

NEWSLETTER OF THE ALABAMA JUDICIAL SYSTEM

COURT NEWS, Volume 5, Number 12, newsletter of the Alabama Judicial System, is published monthly as an informational and educational service to state judicial officials and personnel. Inquiries should be addressed to Administrative Office of Courts, 817 South Court Street, Montgomery, AL 36130. Telephone: (205) 834-7990 or 1-800-392-8077.

Robert Martin
Director of Administrative Services
and Editor

Karan Sexton Sims
Assistant Editor

C. C. TORBERT, JR.

Alabama Chief Justice

ALLEN L. TAPLEY

Administrative Director of Courts

ROBERT E. LEE KEY, President

Association of Circuit Judges

JERRY FIELDING, President

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STATE OF ALABAMA
ADMINISTRATIVE OFFICE OF COURTS
817 South Court Street
Montgomery, Alabama 36130

